

**BEFORE THE
STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**JASON KENNETH PETERS
2672 SE Flavia Ter.,
Port Saint Lucie, FL 34952
Optometrist License No. 10967**

Case No. CC 2012-175

OAH No. 2014060121

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the State Board of Optometry, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 17, 2014.

It is so ORDERED August 18, 2014.



FOR THE STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
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Attorneys for Complainant

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8 **BEFORE THE**
9 **STATE BOARD OF OPTOMETRY**
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11 **STATE OF CALIFORNIA**

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Case No. CC 2012-175

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14 **2672 SE Flavia Ter.,**
15 **Port Saint Lucie, FL 34952**

OAH No. 2014060121

16 **STIPULATED SURRENDER OF**
17 **LICENSE AND ORDER**

18 **Optometrist License No. 10967**

19 Respondent.

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 PARTIES

23 1. Mona Maggio (Complainant) is the Executive Officer of the State Board of
24 Optometry. She brought this action solely in her official capacity and is represented in this matter
25 by Kamala D. Harris, Attorney General of the State of California, by Gillian E. Friedman, Deputy
26 Attorney General.

27 2. Jason Kenneth Peters (Respondent) is represented in this proceeding by attorney
28 Adam B. Brown, whose address is Law Offices of Brown & Brown, 3848 Carson Street, Suite
206, Torrance, CA 90503.

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3. On or about September 9, 1997, the State Board of Optometry issued Optometrist License No. 10967 to Jason Kenneth Peters. The Optometrist License was in full force and effect at all times relevant to the charges brought in Accusation No. CC 2012-175 and expired on December 31, 2013.

JURISDICTION

4. Accusation No. CC 2012-175 was filed before the State Board of Optometry (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 12, 2014. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. CC 2012-175 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. CC 2012-175. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. CC 2012-175, if proven at a hearing, constitute cause for imposing discipline upon his Optometrist License.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Optometrist License without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the State Board of Optometry. Respondent understands and agrees that counsel for Complainant and the staff of the State Board of Optometry may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

1 14. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following Order:

3 **ORDER**

4 IT IS HEREBY ORDERED that Optometrist License No. 10967, issued to Respondent
5 Jason Kenneth Peters, is surrendered and accepted by the State Board of Optometry.

6 1. The surrender of Respondent's Optometrist License and the acceptance of the
7 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
8 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
9 license history with the State Board of Optometry.

10 2. Respondent shall lose all rights and privileges as an optometrist in California as of
11 the effective date of the Board's Decision and Order.

12 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
13 issued, his wall certificate on or before the effective date of the Decision and Order.

14 4. If Respondent ever files an application for licensure or a petition for reinstatement in
15 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
16 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
17 effect at the time the petition is filed, and all of the charges and allegations contained in
18 Accusation No. CC 2012-175 shall be deemed to be true, correct and admitted by Respondent
19 when the Board determines whether to grant or deny the petition.

20 5. Respondent shall pay the agency its costs of investigation and enforcement in the
21 amount of \$4,427.50 prior to issuance of a new or reinstated license.

22 6. If Respondent should ever apply or reapply for a new license or certification, or
23 petition for reinstatement of a license, by any other health care licensing agency in the State of
24 California, all of the charges and allegations contained in Accusation, No. CC 2012-175 shall be
25 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
26 Issues or any other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Adam B. Brown. I understand the stipulation and the effect it will have on my Optometrist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the State Board of Optometry.

DATED:

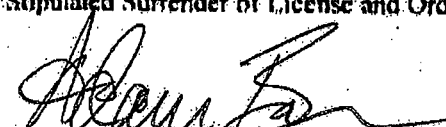
7/24/14


JASON KENNETH PETERS
Respondent

I have read and fully discussed with Respondent Jason Kenneth Peters the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED:

7/24/14


ADAM B. BROWN
Law Offices of Brown & Brown
Attorney for RespondentENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the State Board of Optometry of the Department of Consumer Affairs.

Dated:

7/25/14

Respectfully submitted,

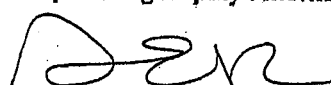
KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General
GILLIAN E. FRIEDMAN
Deputy Attorney General
Attorneys for ComplainantLA2013509785
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Exhibit A

Accusation No. CC 2012-175

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
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7 *Attorneys for Complainant*

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14 **2672 SE Flavia Ter.,**
Port Saint Lucie, FL 34952

A C C U S A T I O N

15 **Optometrist License No. 10967**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

22 2. On or about September 9, 1997, the State Board of Optometry issued Optometrist
23 License Number 10967 to Jason Kenneth Peters (Respondent). The Optometrist License was in
24 full force and effect at all times relevant to the charges brought herein and expired on December
25 31, 2013 and has not be renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 118, subdivision (b) of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 of the Code states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially

1 related to the qualifications, functions, and duties of the licensee in question, the record of
2 conviction of the crime shall be conclusive evidence of the fact that the conviction occurred,
3 but only of that fact, and the board may inquire into the circumstances surrounding the
4 commission of the crime in order to fix the degree of discipline or to determine if the
5 conviction is substantially related to the qualifications, functions, and duties of the licensee in
6 question."

7 As used in this section, "license" includes "certificate," "permit," "authority," and
8 "registration."

9 STATUTORY PROVISIONS

10 7. Section 3090 of the Code states:

11 "Except as otherwise provided by law, the board may take action against all persons
12 guilty of violating this chapter or any of the regulations adopted by the board. The board
13 shall enforce and administer this article as to licenseholders, and the board shall have all the
14 powers granted in this chapter for these purposes, including, but not limited to, investigating
15 complaints from the public, other licensees, health care facilities, other licensing agencies,
16 or any other source suggesting that an optometrist may be guilty of violating this chapter or
17 any of the regulations adopted by the board."

18 8. Section 3110 of the Code states, in pertinent part:

19 "The board may take action against any licensee who is charged with unprofessional
20 conduct, and may deny an application for a license if the applicant has committed unprofessional
21 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
22 limited to, the following:

23 "(a) Violating or attempting to violate, directly or indirectly assisting in or
24 abetting the violation of, or conspiring to violate any provision of this chapter or any of the
25 rules and regulations adopted by the board pursuant to this chapter.

26 ...

27 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
28 omissions.

1 “(f) Any action or conduct that would have warranted the denial of a license.

2 ...

3 “(k) Conviction of a felony or of any offense substantially related to the
4 qualifications, functions, and duties of an optometrist, in which event the record of the
5 conviction shall be conclusive evidence thereof.

6 “(l) Administering to himself or herself any controlled substance or using any of
7 the dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or
8 in a manner, as to be dangerous or injurious to the person applying for a license or holding a
9 license under this chapter, or to any other person, or to the public, or, to the extent that the
10 use impairs the ability of the person applying for or holding a license to conduct with safety
11 to the public the practice authorized by the license, or the conviction of a misdemeanor or
12 felony involving the use, consumption, or self administration of any of the substances
13 referred to in this subdivision, or any combination thereof.”

14 9. Section 4021 of the Code states:

15 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with section
16 11053) of Division 10 of the Health and Safety Code.”

17 10. Section 4022 of the Code states:

18 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in
19 humans or animals, and includes the following:

20 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
21 prescription,’ ‘Rx only,’ or words of similar import.

22 “(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale
23 by or on the order of a _____,’ ‘Rx only,’ or words of similar import . . .

24 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
25 prescription or furnished pursuant to Section 4006.”

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1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 16, section 1517 states, in pertinent part:

3 "For the purpose of denial, suspension, or revocation of the certificate of registration of an
4 optometrist pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act
5 shall be considered to be substantially related to the qualifications, functions, and duties of an
6 optometrist if to a substantial degree it evidences present or potential unfitness of an optometrist
7 to perform the functions authorized by his/her certificate of registration in a manner consistent
8 with the public health, safety, or welfare."

9 **COST RECOVERY**

10 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
14 renewed or reinstated.

15 **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

16 13. "Benzodiazepine" is a Schedule IV controlled substance pursuant to Health and
17 Safety Code Section 11057(d) and a dangerous drug per Section 4022 of the Code. In general,
18 benzodiazepines act as hypnotics in high doses, anxiolytics in moderate doses, and sedatives in
19 low doses.

20 14. "Methamphetamine" is a Schedule II controlled substance as designated by Health
21 and Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and
22 Professions Code section 4022. It is a stimulant drug.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Conviction of a Substantially Related Crime)**

25 15. Respondent's license is subject to disciplinary action under section 3110, subdivision
26 (k), and 490 of the Code, in conjunction with California Code of Regulations, title 16, section
27 1517 for unprofessional conduct in that Respondent has been convicted of a crime substantially
28 related to the qualifications, functions or duties of a licensed optometrist.

1 a. On July 31, 2013, after pleading nolo contendere, Respondent was convicted of one
2 misdemeanor count of violating Vehicle Code section 23103, [reckless driving] in the criminal
3 proceeding entitled *The People of the State of California v. Jason K. Peters* (Super. Ct. Los
4 Angeles County, 2013, No. 3vy03015). The Court placed Respondent on 36 months probation,
5 with terms and conditions.

6 b. The circumstances surrounding the conviction are that on June 20, 2013, Respondent
7 was stopped while traveling on the 101 Freeway at a slow rate of speed with hazard lights
8 activated. Respondent told the officer that he was going slow because he was transporting his pet
9 fish. During the stop, Respondent was observed to be driving under the influence. Respondent
10 submitted to a chemical blood test, which returned positive for Benzodiazepines and
11 Methamphetamine.

12 c. Respondent had a prior conviction for violating Vehicle Code section 23103,
13 [reckless driving] on December 6, 2004 in the criminal proceeding entitled *The People of the*
14 *State of California v. Jason K. Peters* (Super. Ct. Los Angeles County, 2004, No. 04HM08529).

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Dangerous Use of Alcohol, Controlled Substances, and Dangerous Drugs)**

17 16. Respondent's license is subject to disciplinary action under section 3110, subdivision
18 (l) for unprofessional conduct in that on or about June 20, 2013, Respondent used controlled
19 substances, and dangerous drugs to an extent or in a manner dangerous or injurious to himself,
20 another person, or the public. Complainant refers to, and by this reference incorporates, the
21 allegations set forth above in paragraphs 15 a through c above, as though set forth fully.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Any action or conduct that would have warranted the denial of a license)**

24 17. Respondent's license is subject to disciplinary action under section 3110, subdivision
25 (f) in that Respondent's action or conduct would have warranted the denial of a license.
26 Complainant refers to, and by this reference incorporate, the allegations set forth above in
27 paragraphs 15 through c above, as though set forth fully.

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violating or Attempting to Violate Provisions of the Chapter)**

3 18. Respondent's license is subject to disciplinary action under section 3110, subdivision
4 (a) in that Respondent violated or attempted to violate, directly or indirectly assisting in or
5 abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules
6 or regulations adopted by the board pursuant to this chapter. Complainant refers to, and by this
7 reference incorporate, the allegations set forth above in paragraphs 15 a through c above as though
8 set forth fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct: Repeated Negligent Acts)**

11 19. Respondent is subject to disciplinary action under section 3110, subdivision (c) in that
12 Respondent engaged in repeated negligent acts in connection with his work as an independent
13 contractor at L.A. Optometrique, Doctors of Optometry, located at 8801 Santa Monica Boulevard,
14 West Hollywood, California.

15 a. On July 16, 2012, August 23, 2012 and September 13, 2012, Respondent failed to
16 show up for a fully booked schedule of patient appointments without any prior excuse or warning
17 to the staff or his patients, requiring the patients to reschedule their appointments.

18 b. On October 25, 2012, office staff noticed that Respondent appeared to be taking an
19 extremely long time with his last scheduled patient of the day. After an hour into the exam, the
20 patient walked out of the exam room without a prescription and left the office. Staff went into the
21 exam room and found Respondent to have dilated pupils and appeared to be incoherent and
22 lethargic. Respondent refused any medical attention and instead requested that staff call a friend
23 to drive him home.

24 c. On November 29, 2012, Respondent showed up at the office with dilated eyes and
25 slurred speech, causing concern by the staff.

26 d. On January 6, 2012, Respondent contacted the police and asked them to come to his
27 home because he believed that there was a conspiracy of viruses on his computer, cellphone and
28

1 even alarm clock. Respondent admitted he had taken methamphetamine. He was placed in a
2 detoxification facility for an overnight watch.

3 e. On or about January 12, 2012, Respondent came into the office around 7:00 pm after
4 closing hours on a Saturday, triggering the alarm. When staff returned to the office around 8:00
5 p.m., they found the front door to the office unlocked and the alarm was not set. Staff was
6 concerned that this could have created a lot of damage to the patient files and merchandise as the
7 practice is on a busy West Hollywood corner. Respondent had been told by the owners of the
8 practice that he could only return to the facility during working hours.


9 f. Since Respondent's work with L.A. Optometrique was terminated, Respondent
10 became delusional and disgruntled and threatened litigation. He also made threats regarding the
11 safety of the office staff and patients.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the State Board of Optometry issue a decision:

- 15 1. Revoking or suspending Optometrist License Number 10967, issued to Jason Kenneth
16 Peters;
17 2. Ordering Jason Kenneth Peters to pay the State Board of Optometry the reasonable
18 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
19 section 125.3; and
20 3. Taking such other and further action as deemed necessary and proper.
21
22

23 DATED: February 5, 2014


24 MONA MAGGIO
25 Executive Officer
26 State Board of Optometry
27 Department of Consumer Affairs
28 State of California
Complainant

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